

HOUSE BILL REPORT

HB 1127

As Reported by House Committee On:
Financial Institutions & Insurance

Title: An act relating to public building or construction contracts.

Brief Description: Changing bidding requirements for wastewater projects.

Sponsors: Representatives B. Sullivan, Rodne, P. Sullivan, Jarrett, Kirby, Nixon, McCoy and Shabro.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/8/05, 2/16/05 [DPS].

Brief Summary of Substitute Bill

- Authorizes the use of wrap-up insurance for certain public construction projects for wastewater treatment and conveyance systems.
- Prevents a port district from aggregating projects to meet the minimum threshold amount required by law.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Kirby, Chair; Ericks, Vice Chair; Tom, Assistant Ranking Minority Member; Santos, Schual-Berke, Simpson, Strow and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Roach, Ranking Minority Member; Newhouse and Serben.

Staff: Jon Hedegard (786-7127).

Background:

Most public works construction in Washington is performed by private firms. State and local governments contract with private architectural and construction companies for the design and construction of facilities using specific procedures designated in statute. Typically, contractors, subcontractors, consultants, architects, the owner, and others involved in major public construction projects each obtain their own insurance or risk financing to cover their role or risk in the project.

A type of risk pooling known as a "wrap-up" insurance policy is routinely used on large private construction projects. A wrap-up insurance policy generally involves one large, comprehensive policy that covers the owner and all the companies involved in a construction project. This can reduce costs and simplify project management.

In 2003, a law was passed authorizing the use of wrap-up insurance policies for certain public construction projects:

- public nonprofit corporation for the state convention and trade center;
- projects in excess of \$100 million for port districts formed under 53.04 RCW;
- projects for a regional transit authority authorized under RCW 81.112.030; and
- public hospital projects in excess of \$100 million for counties with a population over one million.

Summary of Substitute Bill:

Public construction projects for wastewater treatment and conveyance systems may use wrap-up insurance if the project is in excess of \$100 million and is for a county with a population of over one million.

Substitute Bill Compared to Original Bill:

The substitute bill adds language that prevents a port district from combining multiple projects to meet the minimum \$100 million threshold amount required under the law.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except for section 2, which does not include an exception for port districts, which takes effect December 31, 2006.

Testimony For: This bill adds to the current list of projects that are allowed to use "wrap-up" insurance. The bill allows counties with a population of over one million people to purchase this insurance product for certain wastewater projects. This will save King County \$4 million to \$6 million on a current project. This type of insurance is controlled by the owner. It provides adequate and uniform liability coverage for subcontractors. Recently, the insurance marketplace has been difficult for contractors. For smaller contractors, it may remove a barrier that could prevent them from making a bid.

Testimony Against: This insurance product is complicated. The best way to use the product is to combine all property and casualty coverages, including Worker's Compensation Insurance. In Washington, Worker's Compensation Insurance can't be included. This leads to coverage problems. There may be gaps in coverage or double coverage. It also leads to possible ethical issues for agents. The market is improving. This is not the time to expand the

list of exemptions. Instead, the current exemptions and these insurance products should be reviewed by the Joint Legislative Audit and Review Committee or the Office of the Insurance Commissioner. The benefits of these products should be assessed before the list of exemptions is lengthened.

Persons Testifying: (In support) Representative B. Sullivan, prime sponsor; Bob Abbott, Laborers District Council; Jennifer Hills and Chuck Williams, King County; and Deborah Bovee, Aon Corporation.

(Opposed) Bill Stauffacher, Independent Insurance Agents and Brokers of Washington.

Persons Signed In To Testify But Not Testifying: None.